



November 22, 2000

Mr. Leonard Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P O. Box 4004
Huntsville, Texas 77342

OR2000-4501

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141680.

The Texas Department of Criminal Justice (the "department") received a request "to review all files, records, and any other documents in the possession of the (department)" pertaining to a named inmate's gang classification. You claim that the requested information, "if it exists," is excepted from disclosure under sections 552.101, 552.107 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We will first address your argument under section 552.108(b). That section provides in pertinent part as follows:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). Initially, we note that the department is a law enforcement agency for purposes of section 552.108. *See* Open Records Decision No. 413 (1984) (interpreting predecessor statute). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the

explanation on its face, how and why the release of the requested information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the release of the requested information might compromise prison security. More specifically, you state:

We have a formal process for identifying inmates as members of gangs and (Security Threat Groups) Because identification as a Security Threat Group (STG) member automatically places an inmate in Administrative Segregation (AdSeg), the gangs work hard at camouflaging themselves from our view. Placement in AdSeg means that a gang member cannot attend to gang business, profoundly limits the opportunity to associate with other gang members, and probably means a longer stay in prison for a given sentence. . . . If the gangs know about how we identify their members, they can move to camouflage themselves so that it will be more difficult for us to identify and isolate them in the future. If they know who our informants are, they can deny them access to information or silence them. If they know how we interpret information, they can avoid creating that kind of information or they can create smoke that hides the information The result would be that it would become that much more difficult to identify gang members and block their most dangerous schemes.

Having reviewed your arguments and the submitted information, we agree that the release of the information would interfere with law enforcement. Accordingly, you may withhold the submitted information from disclosure under section 552.108(b)(1). Because section 552.108 is dispositive of the information at issue, we do not address your additional claimed exceptions under sections 552.101 and 552.107.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/seg

Ref: ID# 141680

Encl. Submitted documents

cc: Ms Elizabeth Detweiler
Texas Defense Services
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Houston, Texas 77002
(w/o enclosures)